

*Adopt chapter Env-A 4600 to read as follows:*

## CHAPTER Env-A 4600 CARBON DIOXIDE (CO<sub>2</sub>) BUDGET TRADING PROGRAM

Statutory Authority: RSA 125-O:8, I(c)-(g)

### PART Env-A 4601 PURPOSE AND APPLICABILITY

Env-A 4601.01 Purpose. The purpose of this chapter is to establish the New Hampshire CO<sub>2</sub> Budget Trading Program in accordance with RSA 125-O:21. The program is designed to stabilize and then reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas, from CO<sub>2</sub> budget sources in the state in an economically efficient manner.

Env-A 4601.02 Applicability. The provisions of this chapter shall apply to any unit that, at any time on or after January 1, 2005, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe. Any source that includes one or more such units shall be considered a CO<sub>2</sub> budget source, as defined in Env-A 4602.23.

### PART Env-A 4602 DEFINITIONS

Env-A 4602.01 “12-month rolling average CO<sub>2</sub> allowance price” as used in RSA 125-O:20, XVI and XVII means the average current market price during a period of 12 consecutive months determined on a rolling basis where a new 12-month period begins on the first day of each calendar month.

Env-A 4602.02 “Account number” means the identification number given by the NH authority to each CO<sub>2</sub> allowance tracking system account as defined in Env-A 4602.18.

Env-A 4602.03 “Acid rain emissions limitation” means “Acid rain emissions limitation” as defined in 40 CFR 72.2. The term establishes a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under title IV of the Clean Air Act.

Env-A 4602.04 “Acid Rain Program” means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator of the U.S. Environmental Protection Agency (EPA) under title IV of the CAA and 40 CFR Parts 72 through 78.

Env-A 4602.05 “Allocate” or “Allocation” means the determination and transfer by the department pursuant to Env-A 4606 of the number of CO<sub>2</sub> allowances to be recorded in:

- (a) The compliance account of a CO<sub>2</sub> budget unit;
- (b) An allocation set-aside account;
- (c) The New Hampshire auction account (NHAA); or
- (d) The general account of the sponsor of an approved CO<sub>2</sub> emissions offset project.

Env-A 4602.06 “Allocation year” means a calendar year for which the department allocates or awards CO<sub>2</sub> allowances pursuant to Env-A 4606 and Env-A 4700. The allocation year of each CO<sub>2</sub> allowance is reflected in the unique identification number given to the allowance pursuant to Env-A 4607.08(c).

Env-A 4602.07 “Alternate CO<sub>2</sub> authorized account representative (Alternate CO<sub>2</sub> AAR)” means, for

a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source, the individual who is authorized by the owner(s) or operator(s) of the source and all CO<sub>2</sub> budget units at the source, in accordance with the provisions of Env-A 4604, to represent and legally bind each owner and operator in matters pertaining to the CO<sub>2</sub> budget trading program or, for a general account, the individual who is authorized under Env-A 4607 to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, then for a CO<sub>2</sub> budget trading program compliance account, this individual shall be the same individual as the alternate designated representative under the Acid Rain Program.

Env-A 4602.08 “Attribute” means a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, unit vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted for, and tracked.

Env-A 4602.09 “Attribute credit” means the attributes as defined in Env-A 4602.08 related to one megawatt-hour of electricity generation.

Env-A 4602.10 “Automated data acquisition and handling system (DAHS)” means that component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under Env-A 4609, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Env-A 4609.

Env-A 4602.11 “Award” means the determination by the department pursuant to Env-A 4606 of the number of CO<sub>2</sub> allowances to be recorded in the compliance account of a CO<sub>2</sub> budget unit for early reduction CO<sub>2</sub> allowances pursuant to Env-A 4606.06(f), or the determination by the department of the number of CO<sub>2</sub> offset allowances to be recorded in the general account of a project sponsor pursuant to Env-A 4700. An award is a type of allocation.

Env-A 4602.12 “Boiler” means an enclosed combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

Env-A 4602.13 “Budget allowance” means “budget allowance” as defined in RSA 125-O:20, II. The term does not include an offset allowance or an early reduction allowance.

Env-A 4602.14 “CO<sub>2</sub> allowance” means “RGGI allowance” as defined in RSA 125-O:20, XV. The term includes budget allowances, offset allowances, and early reduction allowances.

Env-A 4602.15 “CO<sub>2</sub> allowance deduction” or “Deduct CO<sub>2</sub> allowances” means the permanent withdrawal of CO<sub>2</sub> allowances by the NH authority from a CO<sub>2</sub> allowance tracking system compliance account equal to the number of tons of CO<sub>2</sub> emitted from a CO<sub>2</sub> budget source for a control period, determined in accordance with Env-A 4609, or for the forfeit or retirement of CO<sub>2</sub> allowances as provided by this chapter or RSA 125-O:19-28.

Env-A 4602.16 “CO<sub>2</sub> allowance price” means the price of CO<sub>2</sub> allowances under the provisions of this chapter for a particular time period as determined by the NH authority, calculated based on a volume-weighted average of transaction prices reported to the NH authority, and taking into account prices as reported publicly.

Env-A 4602.17 “CO<sub>2</sub> allowances held” or “Hold CO<sub>2</sub> allowances” means the CO<sub>2</sub> allowances recorded by the NH authority, or submitted to the NH authority for recordation, in accordance with Env-A 4607 and Env-A 4608, in a CO<sub>2</sub> allowance tracking system account.

Env-A 4602.18 “CO<sub>2</sub> allowance tracking system” means the system by which the NH authority:

- (a) Records allocations, deductions, and transfers of CO<sub>2</sub> allowances under this chapter; and
- (b) Tracks CO<sub>2</sub> emissions offset projects, CO<sub>2</sub> allowance prices, and emissions from affected sources.

Env-A 4602.19 “CO<sub>2</sub> allowance tracking system account” means an account in the CO<sub>2</sub> allowance tracking system established by the NH authority for purposes of recording the allocation, holding, transferring, or deducting of CO<sub>2</sub> allowances.

Env-A 4602.20 “CO<sub>2</sub> allowance transfer deadline” means midnight of the first day of March occurring after the end of the relevant control period or, if that March 1 is not a business day, midnight of the first business day thereafter. The CO<sub>2</sub> allowance transfer deadline is the deadline by which CO<sub>2</sub> allowances must be submitted for recordation in a CO<sub>2</sub> budget source’s compliance account in order to meet the source’s CO<sub>2</sub> budget emissions limitation for the control period immediately preceding such deadline.

Env-A 4602.21 “CO<sub>2</sub> authorized account representative (CO<sub>2</sub> AAR)” means, for a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at that source, the individual who is legally authorized by the owner or operator of the source and all CO<sub>2</sub> budget units at that source, in accordance with Env-A 4604, to represent and legally bind each owner and operator in matters pertaining to the provisions of this chapter or, for a general account, the individual who is authorized, under Env-A 4607, to request transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, then for a CO<sub>2</sub> Budget Trading Program compliance account, this individual shall be the same individual as the designated representative under the Acid Rain Program.

Env-A 4602.22 “CO<sub>2</sub> budget allowance” means “budget allowance” as defined in RSA 125-O:20, II. The term does not include an offset allowance or an early reduction allowance.

Env-A 4602.23 “CO<sub>2</sub> budget emissions limitation” means, for a CO<sub>2</sub> budget source, the tons of CO<sub>2</sub> equivalent to the number of allowances held by the CO<sub>2</sub> budget source in an account at the end of a control period.

Env-A 4602.24 “CO<sub>2</sub> budget permit” means the portion of the legally binding permit issued by the department pursuant to Env-A 600 to a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit that specifies the CO<sub>2</sub> budget trading program requirements applicable to the CO<sub>2</sub> budget source, to each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source, and to the owner or operator and the CO<sub>2</sub> AAR of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit.

Env-A 4602.25 “CO<sub>2</sub> budget source” means “affected CO<sub>2</sub> source” as defined in RSA 125-O:20, I.

Env-A 4602.26 “CO<sub>2</sub> budget trading program” means the CO<sub>2</sub> air pollution control and emissions reduction program established pursuant to RSA 125-O and this chapter.

Env-A 4602.27 “CO<sub>2</sub> budget unit” means a unit that is subject to the CO<sub>2</sub> budget trading program requirements under Env-A 4601.02.

Env-A 4602.28 “CO<sub>2</sub> offset allowance” means “offset allowance” as defined in RSA 125-O:20, X.

Env-A 4602.29 “Combined cycle system” means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

Env-A 4602.30 “Combustion turbine” means an enclosed device that is comprised of a compressor, if applicable, a combustor, and a turbine, in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

Env-A 4602.31 “Commenced commercial operation” means to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. For a unit that is a CO<sub>2</sub> budget unit under Env-A 4601.02 on the date the unit commences commercial operation, such date remains the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not yet a CO<sub>2</sub> budget unit under Env-A 4601.02 on the date the unit commences commercial operation, the date the unit becomes a CO<sub>2</sub> budget unit under Env-A 4601.02 is the unit's date of commencement of commercial operation.

Env-A 4602.32 “Commence operation” means to begin any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. For a unit that is a CO<sub>2</sub> budget unit under Env-A 4601.02 on the date of commencement of operation, such date remains the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit under Env-A 4601.02 on the date of commencement of operation, the date the unit becomes a CO<sub>2</sub> budget unit under Env-A 4601.02 is the unit's date of commencement of operation.

Env-A 4602.33 “Compliance account” means a CO<sub>2</sub> allowance tracking system account, established by the NH authority for a CO<sub>2</sub> budget source under Env-A 4607, in which the CO<sub>2</sub> allowance allocations for the source are initially recorded, and in which are held CO<sub>2</sub> allowances available for use by the source for a control period for the purpose of meeting the requirements of Env-A 4605.

Env-A 4602.34 “Consumer price index (CPI)” means, for purposes of the CO<sub>2</sub> budget trading program, “consumer price index” as defined in RSA 125-O:20, V.

Env-A 4602.35 “Continuous emissions monitoring system (CEMS)” means a “continuous emissions monitoring system (CEMS)” as defined in Env-A 101.53. For the purposes of this chapter, this means the equipment required under Env-A 4609 to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes, using an automated DAHS as defined in Env-A 4602.10, a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR Part 75 and Env-A 4609.

Env-A 4602.36 “Control period” means “compliance period” as defined in RSA 125-O:20, IV.

Env-A 4602.37 “Current Market Price” means the volume-weighted average for the current time period of the following:

- (a) Transaction prices reported to the NH authority;
- (b) Prices for CO<sub>2</sub> allowances as reported publicly, for example by Argus Air Daily;
- (c) CO<sub>2</sub> allowance award price(s) from preceding CO<sub>2</sub> Allowance Auction(s); or
- (d) Any combination of these options.

Env-A 4602.38 “Early reduction CO<sub>2</sub> allowances (ERAs)” means “early reduction allowances” as defined in RSA 125-O:20, VII.

Env-A 4602.39 “Eligible biomass” means sustainably-harvested woody and herbaceous fuel sources

that are available on a renewable or recurring basis, excluding old-growth timber, including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, and biogas other than liquid biofuels. Biomass combusted at Schiller Station qualifies as eligible biomass.

Env-A 4602.40 “Excess CO<sub>2</sub> emissions” means tons of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during a control period that exceeds the CO<sub>2</sub> budget emissions limitation for the source.

Env-A 4602.41 “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such materials.

Env-A 4602.42 “Fossil fuel-fired” means:

(a) For a unit that commenced operation prior to January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than 50 percent of the annual heat input on a BTU basis during any calendar year; or

(b) For a unit that commences operation on or after January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than 5 percent of the annual heat input on a BTU basis during any calendar year.

Env-A 4602.43 “General account” means a CO<sub>2</sub> allowance tracking system account established under Env-A 4607 that is not a compliance account.

Env-A 4602.44 “Generator” means a machine that converts mechanical energy into electrical energy.

Env-A 4602.45 “Gross generation” means the electrical output, in MWe, at the terminals of the generator.

Env-A 4602.46 “Life-of-the-unit contractual arrangement” means a unit participation power sales agreement under which a customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and/or associated energy from any specified unit pursuant to a contract, for:

(a) The life of the unit;

(b) A cumulative term of no less than 25 years, including contracts that allow an election for early termination; or

(c) A period equal to or greater than 20 years or 70 percent of the useful economic life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

Env-A 4602.47 “Market settling period” means “market settling period” as defined in RSA 125-O:20, IX, namely “the first 14 months of any control period.”

Env-A 4602.48 “Maximum design heat input” means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady-state basis, as determined by the physical design and physical characteristics of the unit.

Env-A 4602.49 “Maximum potential hourly heat input” means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input.

Env-A 4602.50 “Monitoring system” means any monitoring system that meets the requirements of

Env-A 4609, including a continuous emissions monitoring system, a monitoring system having an exception under appendix D of 40 CFR part 75, or an alternative monitoring system.

Env-A 4602.51 “Nameplate capacity” means the maximum electrical output, in MWe, that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the U.S. Department of Energy standards.

Env-A 4602.52 “Net electricity generation” means the gross generation minus any electricity output consumed in any way to generate the electricity.

Env-A 4602.53 “New Hampshire auction account (NHAA)” means an account administered by the department for purposes of auctioning CO<sub>2</sub> budget allowances.

Env-A 4602.54 “New Hampshire CO<sub>2</sub> budget trading program base budget” means the annual number of tons of CO<sub>2</sub> budget allowances available in New Hampshire for allocation in a given allocation year, in accordance with the CO<sub>2</sub> budget trading program. CO<sub>2</sub> offset allowances allocated to project sponsors and ERAs are separate from and additional to CO<sub>2</sub> budget allowances allocated from the New Hampshire CO<sub>2</sub> budget trading program base budget.

Env-A 4602.55 “NH Authority” means the department or the regional organization as defined in RSA 125-O:20, XIII, acting at the direction of the department.

Env-A 4602.56 “NH Origination Account” means means a state account administered by the NH authority from which New Hampshire CO<sub>2</sub> budget trading program base CO<sub>2</sub> budget allowances shall be allocated.

Env-A 4602.57 “Non-CO<sub>2</sub> budget unit” means a unit that does not meet the applicability criteria of Env-A 4601.02.

Env-A 4602.58 “Offset allowance” means “offset allowance” as defined in RSA 125-O:20, X.

Env-A 4602.59 “Owner or operator” means, for the purpose of this chapter, any person who:

(a) Owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of CO<sub>2</sub> from a CO<sub>2</sub> budget source; or

(b) Purchases power from a CO<sub>2</sub> budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the power from the unit.

Env-A 4602.60 “Participating state” means a state, as defined in Env-A 4602.65, that has established a program similar to the program established by RSA 125-O:19-28 to reduce emissions of CO<sub>2</sub> from CO<sub>2</sub> budget sources.

Env-A 4602.61 “Person” means “person” as defined by RSA 125-C:2, X, namely “any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties.”

Env-A 4602.62 “PSNH” means the Public Service Company of New Hampshire or any successor to that company’s public utility franchise.

Env-A 4602.63 “Receive” or “In receipt of” means, when referring to the NH authority, to come into possession of a document, information, or correspondence, whether sent in writing or by authorized

electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the NH authority in the regular course of business.

Env-A 4602.64 “Record”, “Recorded” or “Recordation” means, with regard to CO<sub>2</sub> allowances, the movement of CO<sub>2</sub> allowances by the NH authority from one CO<sub>2</sub> allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

Env-A 4602.65 “Renewable energy” means electricity generated from sources that are not depleted by the generation of electricity, including but not limited to electricity generated from biomass, wind, solar, thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels.

Env-A 4602.66 “RGGI allowance” means “RGGI allowance” as defined in RSA 125-O:20, XV.

Env-A 4602.67 “Serial number” means, for CO<sub>2</sub> allowances, the unique identification number assigned to each CO<sub>2</sub> allowance by the NH authority under Env-A 4607.08(c).

Env-A 4602.68 “Stage-one trigger event” means “stage-one trigger event” as defined in RSA 125-O:20, XVI.

Env-A 4602.69 “Stage-2 trigger event” means “stage-2 trigger event” as defined in RSA 125-O:20, XVII.

Env-A 4602.70 “State” means any of the 50 individual states of the U.S., the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

Env-A 4602.71 “Submit” or “Serve” means to send or transmit a document, information, or correspondence to the person specified in the applicable regulation.

Env-A 4602.72 “Ton” or “Tonnage” means a short ton, which equals 2,000 pounds or 0.9072 metric tons.

Env-A 4602.73 “Unit” means, for the purposes of this chapter, a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

Env-A 4602.74 “Unit operating day” means a calendar day in which a unit combusts any fuel.

Env-A 4602.75 “Unsold Allowance” means a CO<sub>2</sub> budget allowance that has been made available for sale in an auction conducted by the NH authority, but not sold.

Env-A 4602.76 “Voluntary renewable energy purchase” means a purchase of electricity from renewable energy generation or renewable energy attribute credits by a retail electricity customer on a voluntary basis. The renewable energy generation or renewable energy attribute credits related to such purchases shall not be used by the generator or purchaser to meet any regulatory mandate, such as a renewable portfolio standard.

## PART Env-A 4603 CO<sub>2</sub> BUDGET PERMITS

### Env-A 4603.01 CO<sub>2</sub> Budget Permit Required.

- (a) Each CO<sub>2</sub> budget source shall have, or obtain, a permit from the department pursuant to Env-A

600.

(b) Each CO<sub>2</sub> budget permit shall:

- (1) Require compliance with all applicable CO<sub>2</sub> budget trading program requirements; and
- (2) Be a complete and distinguishable portion of the permit under (a), above.

Env-A 4603.02 Submission of CO<sub>2</sub> Budget Permit Information. For any existing CO<sub>2</sub> budget source, the CO<sub>2</sub> authorized account representative (CO<sub>2</sub> AAR) shall:

- (a) Submit to the department complete information requested in the notice of permit reopening for cause issued by the department in accordance with Env-A 609.19; and
- (b) Submit in a timely manner any supplemental information that the department determines is necessary in order to review the CO<sub>2</sub> budget permit and issue or deny a CO<sub>2</sub> budget permit.

Env-A 4603.03 Information Required for CO<sub>2</sub> Budget Permit Applications. A complete CO<sub>2</sub> budget permit application shall be submitted as part of the temporary permit application in accordance with Env-A 600 for new units and include the following elements:

- (a) Identification of the CO<sub>2</sub> budget source, including plant name and the Office of Regulatory Information Systems (ORIS) code or facility code assigned to the source by the Energy Information Administration of the U.S. Department of Energy, if applicable;
- (b) Identification of each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source;
- (c) Identification of the CO<sub>2</sub> AAR and the Alternate CO<sub>2</sub> AAR; and
- (d) All other information required pursuant to Env-A 600.

#### PART Env-A 4604 AUTHORIZED ACCOUNT REPRESENTATIVE FOR CO<sub>2</sub> BUDGET SOURCES

Env-A 4604.01 CO<sub>2</sub> Authorized Account Representative Authorization and Responsibilities.

(a) Except as provided in Env-A 4604.02, each CO<sub>2</sub> budget source, including all CO<sub>2</sub> budget units at the source, shall have one and only one CO<sub>2</sub> authorized account representative (CO<sub>2</sub> AAR), with regard to all matters under the CO<sub>2</sub> budget trading program concerning the source or any CO<sub>2</sub> budget unit at the source.

(b) The CO<sub>2</sub> AAR of the CO<sub>2</sub> budget source shall be selected by an agreement binding on each owner and operator of the source and all CO<sub>2</sub> budget units at the source.

(c) Upon receipt by the NH authority of a complete account certificate of representation under Env-A 4604.04, the CO<sub>2</sub> AAR of the source shall represent and legally bind each owner and operator of the CO<sub>2</sub> budget source represented and each CO<sub>2</sub> budget unit at the source in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> AAR and such owner(s) and operator(s). The owner(s) and operator(s) shall be bound by any and all representations, actions, inactions, and submissions of the CO<sub>2</sub> AAR and any and all decisions or orders issued to the CO<sub>2</sub> AAR by the department or a court regarding the source or unit.

(d) No CO<sub>2</sub> budget permit shall be issued and no CO<sub>2</sub> Allowance Tracking System account shall be



established for a CO<sub>2</sub> budget source until the NH authority has received a complete account certificate of representation under Env-A 4604.04 for a CO<sub>2</sub> AAR of the source and the CO<sub>2</sub> budget units at the source.

(e) Each submission under the CO<sub>2</sub> Budget Trading Program shall be submitted, signed, and certified by the CO<sub>2</sub> AAR for each CO<sub>2</sub> budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CO<sub>2</sub> AAR:

“I am authorized to make this submission on behalf of the owners and operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fines or imprisonment.”

(f) The NH authority shall accept or act on a submission made on behalf of the owner(s) or operator(s) of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit only if the submission has been made, signed, and certified in accordance with (e), above.

#### Env-A 4604.02 Alternate CO<sub>2</sub> AAR.

(a) An account certificate of representation may designate no more than one alternate CO<sub>2</sub> AAR who may act on behalf of the CO<sub>2</sub> AAR. The agreement by which the alternate CO<sub>2</sub> AAR is selected shall include a procedure for authorizing the alternate CO<sub>2</sub> AAR to act in lieu of the CO<sub>2</sub> AAR.

(b) Upon receipt by the NH authority of a complete account certificate of representation under Env-A 4604.04, any representation, action, inaction, or submission by the alternate CO<sub>2</sub> AAR shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> AAR.

(c) Except as provided in Env-A 4604.02, and other than in Env-A 4604.01(a), Env-A 4604.03, Env-A 4604.04, and Env-A 4607.02, whenever the term “CO<sub>2</sub> AAR” is used in this chapter, the term shall be construed to include the alternate CO<sub>2</sub> AAR.

#### Env-A 4604.03 Changing the CO<sub>2</sub> AAR and the Alternate CO<sub>2</sub> AAR; Changes in the Owner or Operator.

(a) If the owner(s) or operator(s) of a source and all CO<sub>2</sub> budget units at the source wish to change the CO<sub>2</sub> AAR, a superseding complete account certificate of representation shall be filed under Env-A 4604.04. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR prior to the time and date when the NH authority receives the superseding account certificate of representation shall be binding on the new CO<sub>2</sub> AAR and each owner and operator of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.

(b) If the owner(s) or operator(s) of a source and all CO<sub>2</sub> budget units at the source wish to change the alternate CO<sub>2</sub> AAR, a superseding complete account certificate of representation shall be filed under Env-A 4604.04. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR prior to the time and date when the NH authority receives the superseding account certificate of representation shall be binding on the new alternate CO<sub>2</sub> AAR and each owner and operator of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.

(c) Within 30 days following any change in the owners or operators of a CO<sub>2</sub> budget source or a

CO<sub>2</sub> budget unit, including the addition of a new owner or operator, the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR shall submit a revised account certificate of representation to the NH authority, which amends the list of owners and operators to include the new owner or operator.

(d) In the event an owner or operator of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR of the source or unit, and the decisions, orders, actions, and inactions of the NH authority, as if the owner or operator were included in such list.

Env-A 4604.04 Account Certificate of Representation.

(a) A complete account certificate of representation for a CO<sub>2</sub> AAR or an alternate CO<sub>2</sub> AAR shall include the following elements in a format prescribed by the NH authority:

- (1) Identification of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source for which the account certificate of representation is submitted;
- (2) The name, mailing address, e-mail address, telephone number, and facsimile transmission number of the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR;
- (3) A list of the name of each owner and operator of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at the source; and
- (4) The following certification statement signed and dated by the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR:

“I certify that I was selected as the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as applicable, by an agreement binding on the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of the owners and operators of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at the source and that each such owner or operator shall be fully bound by my representations, actions, inactions, or submissions, and by any decision or order issued to me by the department or a court regarding the source or unit.”

(b) Unless otherwise required by the NH authority, documents of agreement referred to in the account certificate of representation shall not be submitted to the NH authority. The NH authority shall have no obligation to review or evaluate the sufficiency of such documents, if submitted.

Env-A 4604.05 Objections Concerning the CO<sub>2</sub> AAR.

(a) Once a complete account certificate of representation under Env-A 4604.04 has been received, the NH authority shall rely on the account certificate of representation unless and until the NH authority receives a superseding complete account certificate of representation.

(b) Except as provided in Env-A 4604.03(a) or (b), no objection or other communication submitted to the NH authority concerning the authorization, or any representation, action, inaction, or submission of the CO<sub>2</sub> AAR, shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> AAR or the finality of any decision or order by the NH authority under the CO<sub>2</sub> Budget Trading Program.

(c) The NH authority shall not adjudicate any private legal dispute concerning the authorization or

any representation, action, inaction, or submission of any CO<sub>2</sub> AAR, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

Env-A 4604.06 Delegation by CO<sub>2</sub> AAR and Alternate CO<sub>2</sub> AAR.

(a) A CO<sub>2</sub> AAR may delegate, to one or more individuals, his or her authority to make an electronic submission to the NH authority.

(b) An alternate CO<sub>2</sub> AAR may delegate, to one or more individuals, his or her authority to make an electronic submission to the NH authority.

(c) In order to delegate authority to make an electronic submission to the NH authority in accordance with (a) or (b), above, the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as appropriate, shall first submit to the NH authority a notice of delegation, in a format prescribed by the department, that includes the following elements:

- (1) The name, address, e-mail address, telephone number, and facsimile transmission number of the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR who is making the delegation;
- (2) The name, address, e-mail address, telephone number and facsimile transmission number of each individual to whom authority is being delegated, herein referred to as the “electronic submission agent”;
- (3) For each electronic submission agent, a list of the type of electronic submissions for which authority is delegated to that agent; and
- (4) The following certification statements by such CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR:
  - a. “I agree that any electronic submission to the department or its agent that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as appropriate, and before this notice of delegation is superseded by another notice of delegation under the CO<sub>2</sub> budget trading program shall be deemed to be an electronic submission by me.”
  - b. “Until this notice of delegation is superseded by another notice of delegation under the CO<sub>2</sub> budget trading program, I agree to maintain an e-mail account and to notify the department or its agent immediately of any change in my e-mail address unless all delegation authority by me under the CO<sub>2</sub> budget trading program is terminated.”

(d) A notice of delegation submitted under (c), above, shall be effective, with regard to the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR identified in such notice, upon receipt of such notice by the NH authority and until receipt by the NH authority of a superseding notice of delegation by such CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as applicable. The superseding notice of delegation shall replace a previously-identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

(e) Any electronic submission covered by the certification in (c)(4)a., above, and made in accordance with a notice of delegation effective under (d), above, shall be deemed to be an electronic submission by the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR submitting such notice of delegation.

PART Env-A 4605 CO<sub>2</sub> BUDGET SOURCE REQUIREMENTS; COMPLIANCE CERTIFICATIONEnv-A 4605.01 CO<sub>2</sub> Allowance Requirements.

(a) The owner or operator of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold CO<sub>2</sub> allowances available for compliance deductions under Env-A 4605.04, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account, in an amount not less than the total CO<sub>2</sub> emissions from fossil fuel-fired generation for the control period from all CO<sub>2</sub> budget units at the source, as determined in accordance with Env-A 4605, Env-A 4607, Env-A 4609.18, and (d), below.

(b) A CO<sub>2</sub> budget unit shall be subject to the requirements of this section starting by the later of January 1, 2009 or the date on which the unit commences operation.

(c) CO<sub>2</sub> allowances shall be held in, deducted from, or transferred among CO<sub>2</sub> allowance tracking system accounts in accordance with Env-A 4606, Env-A 4607, Env-A 4608, and Env-A 4700.

(d) For the purpose of determining compliance with this part, total tons of CO<sub>2</sub> emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with Env-A 4609, with any remaining fraction of a ton equal to or greater than 0.50 ton rounded up to equal one ton and any fraction of a ton less than 0.50 ton rounded down to equal zero tons.

Env-A 4605.02 CO<sub>2</sub> Allowance Limitations.

(a) Each ton of CO<sub>2</sub> emitted in excess of the CO<sub>2</sub> budget emissions limitation shall constitute a separate violation of this chapter and applicable state law.

(b) A CO<sub>2</sub> allowance shall not be deducted, in order to comply with the requirements of Env-A 4605.01(a), for a control period that ends prior to the year for which the CO<sub>2</sub> allowance was allocated.

(c) A CO<sub>2</sub> offset allowance shall not be deducted, in order to comply with the requirements of Env-A 4605.01(a), beyond the applicable percent limitations set out in Env-A 4605.04(b).

(d) Subject to (e) and (f), below, a CO<sub>2</sub> allowance is a limited authorization to emit one ton of CO<sub>2</sub> in accordance with the CO<sub>2</sub> budget trading program. No provision of the CO<sub>2</sub> budget trading program, the CO<sub>2</sub> budget permit application, or the CO<sub>2</sub> budget permit shall be construed to limit the authority of the department to terminate or limit such authorization.

(e) The department shall report, in accordance with RSA 125-O:21, VI, any terminations or limitations to the air pollution advisory committee and the legislative oversight committee on electric utility restructuring established under RSA 374-F:5.

(f) The authority of the department shall be limited:

(1) As limited by statute RSA 125-O:22, VII and RSA 125-O:24, VIII; and

(2) Regarding CO<sub>2</sub> budget allowances awarded from the emergency set-aside account under Env-A 4606.09 in accordance with RSA 125-O:22, VI.

(g) A CO<sub>2</sub> allowance shall not constitute a property right.

Env-A 4605.03 Recordkeeping and Reporting Requirements.

(a) Unless otherwise provided, the owner or operator of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall keep on site at the source each of the following documents for a period of 10 years from the date the document is created:

- (1) The account certificate of representation for the CO<sub>2</sub> AAR for the source and each CO<sub>2</sub> budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with Env-A 4604.04, provided that the certificate and documents shall be retained on site at the source beyond such 10-year period until such documents are superseded because of the submission of a new account certificate of representation changing the CO<sub>2</sub> AAR;
- (2) All emissions monitoring information, in accordance with Env-A 4609 and 40 CFR 75;
- (3) Copies of all reports, compliance certifications, and other submissions and all records made or required under this chapter; and
- (4) Copies of all documents used to complete a CO<sub>2</sub> budget permit application and any other submission under the CO<sub>2</sub> Budget Trading Program or to demonstrate compliance with the requirements of this chapter.

(b) The retention period specified in (a), above, shall be extended for cause, at any time prior to the end of 10 years, in writing by the department.

(c) The CO<sub>2</sub> AAR of a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall submit the reports and compliance certifications required under this chapter.

Env-A 4605.04 Allowances Available for Compliance Deduction.

(a) CO<sub>2</sub> allowances that meet the following criteria shall be available to be deducted for compliance with the requirements of Env-A 4605 for a control period:

- (1) For CO<sub>2</sub> allowances other than CO<sub>2</sub> offset allowances, the allowances are from allocation years that fall within a prior control period or the same control period for which the allowances will be deducted; and
- (2) The CO<sub>2</sub> allowances are:
  - a. Held in the CO<sub>2</sub> budget source's compliance account as of the CO<sub>2</sub> allowance transfer deadline for that control period; or
  - b. Transferred into the compliance account by a CO<sub>2</sub> allowance transfer correctly submitted for recordation under Env-A 4608.01 by the CO<sub>2</sub> allowance transfer deadline for that control period;

(b) As provided in RSA 125-O:22, II, a CO<sub>2</sub> budget source may use offset allowances for up to 3.3 percent of its compliance obligation, subject to the following:

- (1) If the department determines that there has been a stage one trigger event, the CO<sub>2</sub> budget source may use up to 5 percent; and
- (2) If the department determines that there has been a stage 2 trigger event, the CO<sub>2</sub> budget

source may use up to 10 percent.

(c) CO<sub>2</sub> allowances shall not be available for current compliance if the allowances were deducted for excess CO<sub>2</sub> emissions for a prior control period under Env-A 4605.08.

(d) Allowances deducted for the purpose of compliance shall not be available for any other purpose.

Env-A 4605.05 Deductions for Compliance. Following the recordation, in accordance with Env-A 4608.02, of CO<sub>2</sub> allowance transfers submitted for recordation in the CO<sub>2</sub> budget source's compliance account by the CO<sub>2</sub> allowance transfer deadline for a control period, the NH authority shall deduct CO<sub>2</sub> allowances available under Env-A 4605.04 equal to the source's CO<sub>2</sub> emissions in tons, as determined in accordance with Env-A 4609 for the control period, until either:

(a) The amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions, less any CO<sub>2</sub> emissions attributable to the burning of eligible biomass, determined in accordance with Env-A 4609, from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source for the control period; or

(b) No more CO<sub>2</sub> allowances as specified in Env-A 4605.04 remain in the compliance account, if there are insufficient CO<sub>2</sub> allowances to complete the deductions pursuant to (a), above.

Env-A 4605.06 Identification of Available CO<sub>2</sub> Allowances by Serial Number; Default Compliance Deductions.

(a) The CO<sub>2</sub> AAR for a source's compliance account may request that specific CO<sub>2</sub> allowances in the compliance account, identified by serial number, be deducted for emissions or excess CO<sub>2</sub> emissions for a control period in accordance with Env-A 4605.05 or Env-A 4605.08. Such identification shall be made in the compliance certification report submitted in accordance with Env-A 4605.09.

(b) In the absence of an identification or in the case of a partial identification of available CO<sub>2</sub> allowances by serial number under (a), above, the NH authority shall deduct CO<sub>2</sub> allowances for a control period from the CO<sub>2</sub> budget source's compliance account in the following order:

(1) First, CO<sub>2</sub> offset allowances, subject to the relevant compliance deduction limitations under Env-A 4605.04(b) and Env-A 4605.08, as follows:

a. CO<sub>2</sub> offset allowances shall be deducted in chronological order, such that CO<sub>2</sub> offset allowances from earlier allocation years shall be deducted before CO<sub>2</sub> offset allowances from later allocation years; and

b. In the event that some, but not all, CO<sub>2</sub> offset allowances from a particular allocation year are to be deducted, CO<sub>2</sub> offset allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances; and

(2) Then, any CO<sub>2</sub> allowances other than CO<sub>2</sub> offset allowances that are available for deduction under the provisions of Env-A 4605.04(a), as follows:

a. CO<sub>2</sub> allowances shall be deducted in chronological order, such that CO<sub>2</sub> allowances from earlier allocation years shall be deducted before CO<sub>2</sub> allowances from later allocation years; and

b. In the event that some, but not all, CO<sub>2</sub> allowances from a particular allocation year are to be deducted, CO<sub>2</sub> allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

Env-A 4605.07 Excess CO<sub>2</sub> Emissions Requirements. The owner or operator of a CO<sub>2</sub> budget source that has excess CO<sub>2</sub> emissions in any control period shall:

- (a) Forfeit the CO<sub>2</sub> allowances required for deduction under Env-A 4605.08, provided CO<sub>2</sub> offset allowances shall not be used to cover any part of such excess CO<sub>2</sub> emissions; and
- (b) Pay any fine, penalty, or assessment or comply with any other remedy imposed under RSA 125-O:22, V.
- (c) The department shall notify the owner or operator after forfeiture in (a) above and prior to payment in (b) above of the opportunity to request a hearing in accordance with the provisions of RSA 541-A and Env-C 200 applicable to adjudicative proceedings.

Env-A 4605.08 Deductions for Excess CO<sub>2</sub> Emissions.

- (a) After making the deductions for compliance under Env-A 4605.05, the NH authority shall deduct from the CO<sub>2</sub> budget source's compliance account a number of CO<sub>2</sub> allowances from allocation years that occur after the control period in which the source has excess CO<sub>2</sub> emissions. As provided by RSA 125-O:22, V, the deduction shall equal to 3 times the number of the source's excess CO<sub>2</sub> emissions.
- (b) In the event that a CO<sub>2</sub> budget source has insufficient CO<sub>2</sub> allowances to cover 3 times the number of the source's excess CO<sub>2</sub> emissions, the source shall transfer sufficient allowances into its compliance account within 14 calendar days of receipt of notice by the NH authority that a shortage exists.
- (c) No CO<sub>2</sub> offset allowances shall be deducted to account for the source's excess CO<sub>2</sub> emissions.
- (d) Any CO<sub>2</sub> allowance deduction required under (a), above, shall not affect the liability of the owner(s) and operator(s) of the CO<sub>2</sub> budget source or the CO<sub>2</sub> units at the source for any fine, penalty, or assessment, and shall not affect the obligation of the owner(s) and operator(s) to comply with any other remedy, for the same violation, as ordered under applicable state law.
- (e) The department shall notify the owner or operator after making the deductions in (a) above of the opportunity to request a hearing in accordance with the provisions of RSA 541-A and Env-C 200 applicable to adjudicative proceedings.

Env-A 4605.09 Compliance Certification Report.

- (a) For each control period in which a CO<sub>2</sub> budget source is subject to the requirements of Env-A 4605, the CO<sub>2</sub> AAR of the source shall submit to the department by March 1 following the relevant control period, a compliance certification report.
- (b) The CO<sub>2</sub> AAR shall include in the compliance certification report under (a), above, the following elements, in a format prescribed by the department:
  - (1) Identification of the source and each CO<sub>2</sub> budget unit at the source;
  - (2) At the CO<sub>2</sub> AAR's option, the serial numbers of the CO<sub>2</sub> allowances that are to be deducted from the source's compliance account under Env-A 4605.06 for the control period, including the serial numbers of any CO<sub>2</sub> offset allowances that are to be deducted subject to the limitations of Env-A 4605.04; and
  - (3) The compliance certification specified in (c), below.

(c) In the compliance certification report required by (a), above, the CO<sub>2</sub> AAR shall certify, based on reasonable inquiry of those individuals with primary responsibility for operating the source and the CO<sub>2</sub> budget units at the source in compliance with the CO<sub>2</sub> Budget Trading Program, whether the source and each CO<sub>2</sub> budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO<sub>2</sub> Budget Trading Program, including:

- (1) Whether the source was operated in compliance with the requirements of Env-A 4605;
- (2) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute CO<sub>2</sub> emissions to the unit, in accordance with Env-A 4609;
- (3) Whether all CO<sub>2</sub> emissions from the units at the source were monitored or accounted for through the missing data procedures specified in 40 CFR part 75 Subpart D, or 40 CFR part 75 appendix D or appendix E and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with Env-A 4609. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made;
- (4) Whether the facts that form the basis for certification under Env-A 4609 of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under Env-A 4609, if any, have changed; and
- (5) If a change is required to be reported under (c)(4), above, the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

Env-A 4605.10 Action on Compliance Certifications.

(a) The NH authority shall review and conduct independent audits concerning any compliance certification or any other submission under the CO<sub>2</sub> budget trading program and make appropriate adjustments of the information in the compliance certifications or other submissions under this chapter.

(b) The NH authority shall deduct CO<sub>2</sub> allowances from, or transfer CO<sub>2</sub> allowances to, a source's compliance account based on the information in the compliance certifications or other submissions to the NH authority.

Env-A 4605.11 Determination of Violations and Deduction of Allowances.

(a) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget source has excess CO<sub>2</sub> emissions for a control period, each day in the control period shall constitute a day of violation unless the owner(s) and operator(s) of the unit demonstrate that a lesser number of days should be considered; and

(b) Each ton of excess CO<sub>2</sub> emissions shall constitute a separate violation.

(c) The propriety of the department's determination that a CO<sub>2</sub> budget source had excess CO<sub>2</sub> emissions and the concomitant deduction of CO<sub>2</sub> allowances from that CO<sub>2</sub> budget source's account may be challenged as provided by law. The commencement or pendency of any administrative enforcement, or civil or criminal judicial action arising from or encompassing that excess CO<sub>2</sub> emissions violation shall not



act to prevent the NH authority from initially deducting the CO<sub>2</sub> allowances resulting from the department's original determination that the relevant CO<sub>2</sub> budget source had excess CO<sub>2</sub> emissions.

(d) Should the department's determination of the existence or extent of the CO<sub>2</sub> budget source's excess CO<sub>2</sub> emissions be revised by the department or by final conclusion of any administrative or judicial action, the department shall act as follows:

(1) In any instance where the department's determination of the extent of excess CO<sub>2</sub> emissions was too low, the department shall take further action in accordance with Env-A 4605.08 to address the expanded violation; or

(2) In any instance where the department's determination of the extent of excess CO<sub>2</sub> emissions was too high, the department shall distribute to the relevant CO<sub>2</sub> budget source a number of CO<sub>2</sub> allowances equaling the number of CO<sub>2</sub> allowances deducted which are attributable to the difference between the original and final quantity of excess CO<sub>2</sub> emissions. If the CO<sub>2</sub> budget source's compliance account no longer exists, the CO<sub>2</sub> allowances shall be provided to a general account selected by the owner or operator of the CO<sub>2</sub> budget source from which they were originally deducted.

(e) The NH authority shall record in the appropriate compliance account all deductions from such an account pursuant to Env-A 4605.05 and Env-A 4605.08.

(f) The department shall notify the owner or operator after making the deductions in (e), above, of the opportunity to request a hearing in accordance with the provisions of RSA 541-A and Env-C 200 applicable to adjudicative proceedings.

## PART Env-A 4606 CO<sub>2</sub> BUDGET ALLOWANCE ALLOCATIONS

### Env-A 4606.01 New Hampshire's CO<sub>2</sub> Trading Program Base Budget.

(a) As provided in RSA 125-O:21, II, the New Hampshire CO<sub>2</sub> budget trading program annual base budget shall be as follows:

(1) For the 2009 through 2014 allocation years, 8,620,460 tons;

(2) For the 2015 allocation year, 8,404,948 tons;

(3) For the 2016 allocation year, 8,189,436 tons;

(4) For the 2017 allocation year, 7,973,924 tons; and

(5) For the 2018 allocation year and each succeeding allocation year until further legislative action, 7,758,412 tons.

(b) The annual base budget shall be held in the NH origination account until and unless allocations are made as provided in this part.

### Env-A 4606.02 Timing Requirements for CO<sub>2</sub> Budget Allowance Allocations.

(a) By January 1, 2009, the department shall allocate CO<sub>2</sub> budget allowances for the 2009, 2010, 2011, and 2012 allocation years from the NH originating account to:

- (1) The New Hampshire auction account (NHAA) under Env-A 4606.03;
- (2) The conversion set-aside account under Env-A 4606.04;
- (3) The voluntary renewable energy certificate or attribute credit (VREC) set-aside account under Env-A 4606.07; and
- (4) The emergency set-aside account under Env-A 4606.09.

(b) By January 1, 2010 and January 1 of each year thereafter, the department shall allocate CO<sub>2</sub> budget allowances as specified in (a)(1) - (4) for the allocation year that commences in the year that is 3 years after the applicable deadline for allocation.

Env-A 4606.03 CO<sub>2</sub> Budget Allowance Allocations to the NHAA. The department shall allocate all CO<sub>2</sub> budget allowances to the NHAA except for those allocated as specified in Env-A 4606.02(a)(2)-(4).

Env-A 4606.04 CO<sub>2</sub> Allowance Allocations: Conversion of Env-A 2900 Allowances and Early Reduction Allowances.

(a) As required by RSA 125-O:24, IV, the department shall determine, as soon as practicable after the start of the program established by this chapter, the number of allowances previously allocated to PSNH under RSA 125-O:3, II or awarded to PSNH under RSA 125-O:5, III, that remain in PSNH's account held as banked allowances under Env-A 2900, after PSNH has completed compliance with the emissions cap of RSA 125-O:3, III(d) for the 2007 and 2008 calendar years.

(b) As required by RSA 125-O:24, V, the department shall grant CO<sub>2</sub> budget allowances to PSNH, at no cost, equivalent to the total of the banked allowances under Env-A 2900 as determined pursuant to (a), above, minus any early reduction allowances granted to PSNH under (e), below, and Env-A 4606.06.

(c) As required by RSA 125-O:24, VI, the department shall grant CO<sub>2</sub> budget allowances pursuant to this section as expeditiously as possible, but in no event shall the amount of CO<sub>2</sub> budget allowances granted pursuant to this part total more than 2.5 million CO<sub>2</sub> budget allowances per year in years 2009, 2010, and 2011, and 1.5 million CO<sub>2</sub> budget allowances in any year thereafter, subject to the limitations in RSA 125-O:24, VII and VIII.

(d) Also as required by RSA 125-O:24, VI, for each CO<sub>2</sub> budget allowance granted, one allowance banked under Env-A 2900 shall be retired.

(e) The department shall award early reduction CO<sub>2</sub> allowances (ERAs) to PSNH or any other CO<sub>2</sub> budget source for reductions in the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions, inclusive of all emissions from CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source, that are achieved by the source during the early reduction period, namely 2006, 2007, and 2008, subject to the requirements of Env-A 4606.05 and Env-A 4606.06. Total facility shutdowns shall not be eligible for ERAs.

Env-A 4606.05 Applications for Early Reduction Allowance (ERA) Allocations.

(a) The CO<sub>2</sub> AAR for a CO<sub>2</sub> budget source seeking ERAs shall submit an application for the award of ERAs by May 1, 2009 by submitting the information required by (b) and (c), below, and Env-A 4606.06 to the department in writing.

(b) The CO<sub>2</sub> AAR shall provide documentation demonstrating that all CO<sub>2</sub> budget units that existed at the source during the baseline period, namely 2003, 2004, and 2005, are included as CO<sub>2</sub> budget units for the early reduction period, including any new CO<sub>2</sub> budget units that were added at the CO<sub>2</sub> budget source

during the early reduction period.

(c) Subject to (d), below, the CO<sub>2</sub> budget source shall demonstrate that all data submitted in support of the ERA application were recorded in compliance with the requirements of Env-A 4609 for all of the baseline years and the early reduction years for which the CO<sub>2</sub> budget source was required to report CO<sub>2</sub> data pursuant to 40 CFR Part 75.

(d) A CO<sub>2</sub> budget source that was not required to submit CO<sub>2</sub> data pursuant to 40 CFR part 75 for any of the years contained in the baseline period or early reduction period may request the department to approve the use of an alternative data source or sources for the calculation of ERAs as part of its application. The department shall approve such a request if the information supplied with the request is sufficient to allow the department to independently conclude that the data are as reliable as data recorded in compliance with Env-A 4609.

Env-A 4606.06 Calculation and Award of Early Reduction Allowances.

(a) The CO<sub>2</sub> AAR shall calculate the requested number of ERAs to be awarded to a particular CO<sub>2</sub> budget source for the early reduction period based on a comparison of the total heat input to all CO<sub>2</sub> budget units at the budget source during the early reduction period to the total heat input to all CO<sub>2</sub> budget units at the budget source during the baseline period, pursuant to the methodology specified in (b) through (f), below.

(b) For purposes of the ERA calculation, the abbreviations used shall have the meaning indicated below:

- (1) “MMBtu” means million British thermal units;
- (2) “MWH<sub>th</sub>” means megawatt hours of thermal energy output;
- (3) “MWH<sub>e</sub>” means megawatt hours of net electrical energy output;
- (4) “AEER<sub>BASELINE</sub>” means the average CO<sub>2</sub> emissions rate resulting from fossil fuel-fired electric energy output and thermal energy output for all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period, in pounds of CO<sub>2</sub> per MWH<sub>th+e</sub>;
- (5) “AEER<sub>ERP</sub>” means the average CO<sub>2</sub> emissions rate resulting from fossil fuel-fired electric energy output and thermal energy output for all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period, in pounds of CO<sub>2</sub> per MWH<sub>th+e</sub>;
- (6) “EO<sub>ERP</sub>” means the total net electric energy output from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period, in MWH<sub>e</sub>;
- (7) “TO<sub>ERP</sub>” means the total useful thermal energy output from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period, in MMBtu;
- (8) “E<sub>BASELINE</sub>” means the total CO<sub>2</sub> emissions from the all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period, in tons; and
- (9) “E<sub>ERP</sub>” means the total CO<sub>2</sub> emissions from the all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period, in tons.

(c) If total heat input to all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period is less than or equal to the total heat input to all the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source

during the baseline period, then ERAs shall be calculated by subtracting  $AEER_{ERP}$  from  $AEER_{BASELINE}$  and multiplying the result by the number resulting from dividing  $TO_{ERP}$  by 3.1413 and adding  $EO_{ERP}$ , then dividing the total by 2000, as shown in the following equation:

$$ERA = \{ (AEER_{BASELINE} - AEER_{ERP}) \times [EO_{ERP} + (TO_{ERP} / 3.1413)] \} / 2000$$

(d) If total heat input to all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period is greater than or equal to the total heat input to all the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period, then ERAs shall be calculated by subtracting  $E_{ERP}$  from  $E_{BASELINE}$ , as shown in the following equation:

$$ERAs = E_{BASELINE} - E_{ERP}$$

(e) For the purposes of this section:

(1) Thermal energy output shall be converted to units of MWh by the conversion factor 1 MWh equals 3.413 MMBtu; and

(2) Output shall be identical to the information submitted to the Independent System Operator to document MWh, and the CO<sub>2</sub> budget unit shall submit to the NH authority the same MWh value submitted to the ISO and a statement certifying that the MWh of electrical output reported reflects the total actual net electrical output for all CO<sub>2</sub> budget units at the facility used by the ISO to determine settlement resources of energy market participants.

(f) Once the department confirms a CO<sub>2</sub> budget source's early reductions of CO<sub>2</sub> emissions, it shall award the ERAs to the CO<sub>2</sub> budget source's compliance account by December 31, 2009.

Env-A 4606.07 Voluntary Renewable Energy Market Set-Aside Program.

(a) The department shall administer the voluntary renewable energy set-aside program established under RSA 125-O:25 in accordance with this section and Env-A 4606.08.

(b) The department shall open and manage a set-aside account for the voluntary renewable energy certificate or attribute credit (VREC) set-aside for each calendar year.

(c) For each calendar year, the department shall allocate one percent from the New Hampshire CO<sub>2</sub> budget trading program base budget specified in Env-A 4606.01 to the VREC set-aside (VRECS) account created pursuant to (b), above.

(d) On or before September 1 of each calendar year, the department shall:

(1) Determine, in accordance with Env-A 4606.08, the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary REC purchases during the prior calendar year; and

(2) Retire or reallocate CO<sub>2</sub> budget allowances from the VRECS account in accordance with (e) and (f), below.

(e) If the number of CO<sub>2</sub> budget allowances allocated to the VRECS account for the prior calendar year is less than the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary REC purchases during the prior calendar year, the department shall retire all of the CO<sub>2</sub> budget allowances in the VRECS account.

(f) If the number of CO<sub>2</sub> budget allowances allocated to the VRECS account for the prior calendar

year is greater than the number of CO<sub>2</sub> tons represented by the actual MWh of VREC purchases during the prior calendar year, the department shall transfer the difference to the NHAA to be auctioned at the next scheduled auction, as specified by RSA 125-O:25, II.

Env-A 4606.08 Determination of Voluntary Renewable Energy Purchases.

(a) In order to be considered under the VREC set-aside program, information as specified in (b), below, shall be submitted to the department no later than the July 30th for the prior calendar year.

(b) Information regarding the purchase of VREC submitted pursuant to (a), above, shall be verifiable, and include the following:

- (1) Documentation of the number of VREC purchases by retail customers in New Hampshire, by customer class;
- (2) Certification that the VREC purchases by retail customers in New Hampshire will not be resold;
- (3) Specification of the time period during which each retail purchase was made;
- (4) Identification of the state in which the electricity was generated or the renewable energy attribute credit was created, including facility name, unique generator identification number, and fuel type; and
- (5) Specification of the time period during which the electricity was generated or the renewable energy attribute credit was created.

(c) Based on information received pursuant to (a), above, the department shall quantify the VREC purchases in New Hampshire during the prior calendar year by multiplying the megawatt-hours (MWh) of voluntary REC purchases in the prior year (MWh<sub>REC</sub>) by the most current marginal CO<sub>2</sub> emissions rate (MER), in pounds of CO<sub>2</sub> per MWh, as reported by the Independent System Operator of New England, as shown in the following equation:

$$\text{VREC purchases} = \text{MWh}_{\text{REC}} \times \text{MER}$$

Env-A 4606.09 Emergency Set-Aside Allocation.

(a) The department shall open and manage a set-aside account for emergencies for each calendar year.

(b) As required by RSA 125-O:22, VI, the department shall reserve one percent of the annual budget allowances in the emergency set-aside account.

(c) The department shall make CO<sub>2</sub> budget allowances available in accordance with RSA 125-O:22, VI and this section to CO<sub>2</sub> budget sources in periods of operation during which an Operating Procedure 4 capacity deficiency alert, as established by the Independent System Operator of New England, is in force.

(d) As directed by RSA 125-O:22, VI, the department shall directly sell the reserved emergency allowances to affected CO<sub>2</sub> sources at the most recent regional auction clearing price upon request of the CO<sub>2</sub> budget source.

(e) As directed by RSA 125-O:22, VI, those allowances reserved in the emergency set-aside

account but not sold in a given year shall be auctioned the following calendar year.

## PART Env-A 4607 CO<sub>2</sub> ALLOWANCE TRACKING SYSTEM

### Env-A 4607.01 CO<sub>2</sub> Allowance Tracking System Compliance Accounts.

(a) Upon receipt of a complete account certificate of representation under Env-A 4604.04, the NH authority shall establish one compliance account for each CO<sub>2</sub> budget source for which the account certificate of representation was submitted.

(b) The NH authority shall record allocations, deductions, and transfers of CO<sub>2</sub> allowances to or from compliance accounts in accordance with this part.

(c) The NH authority shall assign a unique identifying number to each account established under (a), above.

### Env-A 4607.02 Application for CO<sub>2</sub> Allowance Tracking System: General Account.

(a) Any person who wishes to have a general account for the purpose of holding and transferring CO<sub>2</sub> allowances shall request the NH authority to establish a general account in accordance with this section.

(b) The application for a general account shall designate one and only one CO<sub>2</sub> AAR and no more than one alternate CO<sub>2</sub> AAR, who may act on behalf of the CO<sub>2</sub> AAR. The agreement by which the alternate CO<sub>2</sub> AAR is selected shall include a procedure for authorizing the alternate CO<sub>2</sub> AAR to act in lieu of the CO<sub>2</sub> AAR.

(c) A complete application for a general account shall include the following elements in a format prescribed by the NH authority:

(1) The name, mailing address, electronic mail address, daytime telephone number, and facsimile transmission number of the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR;

(2) A list naming each person subject to the binding agreement for the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR to represent the person's ownership interest with respect to the CO<sub>2</sub> allowances held in the general account; and

(3) The following certification statement signed and dated by the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR:

"I certify that I was selected as the CO<sub>2</sub> AAR or the CO<sub>2</sub> alternate AAR, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the department or its agent or a court regarding the general account."

(d) Unless otherwise required by the NH authority, documents of agreement referred to in the application for a general account shall not be submitted to the NH authority. The NH authority shall have no obligation to review or evaluate the sufficiency of such documents, if submitted.

(e) Upon receipt by the NH authority of a complete application for a general account in accordance with this section, the NH authority shall establish a general account for the person or persons for whom the application is submitted.

(f) The NH authority shall assign a unique identifying number to each account established under (e), above.

(g) Transfers of CO<sub>2</sub> allowances pursuant to Env-A 4608 shall be recorded in the general account.

Env-A 4607.03 CO<sub>2</sub> AAR Authorization and Authority.

(a) The CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CO<sub>2</sub> allowances held in the general account in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> AAR or any alternate CO<sub>2</sub> AAR and such person. Any such person shall be bound by any order or decision issued to the CO<sub>2</sub> AAR or any alternate CO<sub>2</sub> AAR by the NH authority or a court regarding the general account.

(b) Any representation, action, inaction, or submission by any alternate CO<sub>2</sub> AAR shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> AAR.

(c) Each submission concerning the general account shall be submitted, signed, and certified by the CO<sub>2</sub> AAR or the alternate CO<sub>2</sub> AAR for the persons having an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CO<sub>2</sub> AAR or the alternate CO<sub>2</sub> AAR:

“I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fines or imprisonment.”

(d) The NH authority shall accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with (c), above.

Env-A 4607.04 Changing CO<sub>2</sub> AAR and Alternate CO<sub>2</sub> AAR; Changes in Persons with Ownership Interest.

(a) If the persons having an ownership interest in the CO<sub>2</sub> allowances in a general account wish to change the AAR, a superseding complete application for a general account shall be submitted to the NH authority in accordance with Env-A 4607.02. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> AAR, or the previous alternate CO<sub>2</sub> AAR, prior to the time and date when the NH authority receives the superseding application for a general account shall be binding on the new CO<sub>2</sub> AAR and all persons with an ownership interest in the CO<sub>2</sub> allowances in the general account.

(b) If the persons having an ownership interest in the CO<sub>2</sub> allowances in a general account wish to change the alternate CO<sub>2</sub> AAR, a superseding complete application for a general account shall be submitted to the NH authority in accordance with Env-A 4607.02. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> AAR, or the previous alternate

CO<sub>2</sub> AAR, prior to the time and date when the NH authority receives the superseding application for a general account shall be binding on the new alternate CO<sub>2</sub> AAR and all persons with an ownership interest in the CO<sub>2</sub> allowances in the general account.

(c) In the event a person having an ownership interest with respect to CO<sub>2</sub> allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions, and submissions of the CO<sub>2</sub> AAR and any alternate CO<sub>2</sub> AAR, and the decisions, orders, actions, and inactions of the NH authority, as if the person were included in such list.

(d) Within 30 days following any change in the persons having an ownership interest in CO<sub>2</sub> allowances in the general account, such as the addition, deletion, or substitution of a person, the CO<sub>2</sub> AAR or the alternate CO<sub>2</sub> AAR, if any, shall submit a revision to the application for a general account, amending the list of persons having an ownership interest in the CO<sub>2</sub> allowances in the general account to include the change.

#### Env-A 4607.05 Objections Concerning CO<sub>2</sub> AAR.

(a) Once a complete application for a general account pursuant to Env-A 4607.02 has been received by the NH authority, the NH authority shall rely on the application until any superseding complete application for a general account as provided in Env-A 4607.04 is received by NH authority.

(b) Except as provided in Env-A 4607.04(a) or (b), no objection or other communication submitted to the NH authority concerning the authorization, or any representation, action, inaction, or submission of the CO<sub>2</sub> AAR or any alternate CO<sub>2</sub> AAR for a general account shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> AAR or any alternate CO<sub>2</sub> AAR or the finality of any decision or order by the NH authority under the CO<sub>2</sub> Budget Trading Program.

(c) The NH authority shall not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CO<sub>2</sub> AAR or any alternate CO<sub>2</sub> AAR for a general account, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

#### Env-A 4607.06 Delegation by CO<sub>2</sub> AAR and Alternate CO<sub>2</sub> AAR.

(a) A CO<sub>2</sub> AAR may delegate, to one or more individuals, his or her authority to make an electronic submission to the NH authority under the provisions of Env-A 4607 and Env-A 4608.

(b) An alternate CO<sub>2</sub> AAR may delegate, to one or more individuals, his or her authority to make an electronic submission to the NH authority under the provisions of Env-A 4607 and Env-A 4608.

(c) In order to delegate authority to make an electronic submission to the NH authority in accordance with (a) or (b), above, the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as appropriate, shall submit to the NH authority a notice of delegation, in a format prescribed by the department, that includes the following:

(1) The name, mailing address, electronic mail address, daytime telephone number, and facsimile transmission number of such CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR;

(2) The name, mailing address, electronic mail address, daytime telephone number and facsimile transmission number of each individual to whom authority is being delegated, herein referred to as "electronic submission agent";

(3) For each such individual, a list of the type of electronic submissions under (a) or (b), above, for which authority is delegated to that individual; and



(4) The following certification statements signed and dated by the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR who is making the delegation:

- i. “I agree that any electronic submission to the department or its agent that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as appropriate, and before this notice of delegation is superseded by another notice of delegation under the CO<sub>2</sub> budget trading program shall be deemed to be an electronic submission by me.”
- ii. “Until this notice of delegation is superseded by another notice of delegation under the CO<sub>2</sub> budget trading program, I agree to maintain an electronic mail account and to notify the department or its agent immediately of any change in my electronic mail address unless all delegation authority by me under the CO<sub>2</sub> budget trading program is terminated.”

(d) A notice of delegation submitted in accordance with (c), above, shall be effective, with regard to the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR identified in such notice, upon receipt of such notice by the NH authority and until receipt by the NH authority of a superseding notice of delegation by such CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR, as applicable. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

(e) Any electronic submission covered by the certification in (c)(4), above, and made in accordance with a notice of delegation effective under (d), above, shall be deemed to be an electronic submission by the CO<sub>2</sub> AAR or alternate CO<sub>2</sub> AAR submitting such notice of delegation.

Env-A 4607.07 CO<sub>2</sub> Allowance Tracking System Responsibilities of CO<sub>2</sub> AAR. Following the establishment of a CO<sub>2</sub> allowance tracking system account, all submissions to the NH authority pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CO<sub>2</sub> allowances in the account, shall be made only by the CO<sub>2</sub> AAR for the account.

Env-A 4607.08 Recordation of CO<sub>2</sub> Allowance Allocations.

(a) By January 1, 2009, the NH authority shall record the CO<sub>2</sub> allowances allocated to the NHAA under Env-A 4606.03 and to the set-aside accounts under Env-A 4606.04, Env-A 4606.08, and Env-A 4606.09 for the allocation years of 2009, 2010, 2011, and 2012.

(b) Each year the NH authority shall record CO<sub>2</sub> allowances, as allocated under Env-A 4606, in the applicable accounts for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to the applicable accounts. Each year, the NH authority also shall record CO<sub>2</sub> allowances, as allocated under Env-A 4606, in an allocation set-aside for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to an allocation set-aside.

(c) When allocating CO<sub>2</sub> allowances to and recording them in an account, the NH authority shall assign each CO<sub>2</sub> allowance a unique identification number that includes digits identifying the year for which the CO<sub>2</sub> allowance is allocated.

(d) On or before December 31, 2009, the department shall record any ERAs awarded pursuant to Env-A 4606.06(f) in the CO<sub>2</sub> budget source’s compliance account.

Env-A 4607.09 Action on Submissions.

(a) The NH authority shall review and conduct independent audits of any submission under the CO<sub>2</sub>

budget trading program and make appropriate adjustments of the information in the submissions.

(b) Such review and audit shall be conducted:

- (1) On a random number and selection of the submittals for a given control period; and
- (2) On any submittal for which the NH authority has a good faith belief that the submittal contains a discrepancy.

(c) If, as a result of a review pursuant to (a), above, the NH authority determines that a source's compliance account contains the incorrect amount of allowances, the department shall deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to the source's compliance account as needed to correct the account.

Env-A 4607.10 Banking. Each CO<sub>2</sub> allowance that is held in a compliance account or a general account shall remain in such account unless and until the CO<sub>2</sub> allowance is deducted or transferred.

Env-A 4607.11 Account Error.

(a) Upon confirmation of an error in any CO<sub>2</sub> allowance tracking system account, the NH authority shall:

- (1) Correct the error; or
- (2) Notify the CO<sub>2</sub> AAR for the account in writing of the error and request that the error be corrected.

(b) If the NH authority corrects the error pursuant to (a)(1), above, the NH authority shall notify the CO<sub>2</sub> AAR for the account within 10 business days of making such correction,.

Env-A 4607.12 Closing of General Accounts.

(a) If a CO<sub>2</sub> AAR of a general account wishes to close the account, the CO<sub>2</sub> AAR shall instruct the NH authority to close the account by submitting:

- (1) A statement requesting deletion of the account from the CO<sub>2</sub> allowance tracking system; and
- (2) A CO<sub>2</sub> allowance transfer of all CO<sub>2</sub> allowances in the account to one or more other CO<sub>2</sub> allowance tracking system accounts for recordation under Env-A 4608.

(b) If a general account shows no activity for a period of 6 years and does not contain any CO<sub>2</sub> allowances, the NH authority shall send a written notice to the CO<sub>2</sub> AAR for the account, stating that the account will be closed in the CO<sub>2</sub> allowance tracking system 20 business days after the notice is sent unless the CO<sub>2</sub> AAR submits, before the end of the 20-day period, a transfer of CO<sub>2</sub> allowances into the account in accordance with Env-A 4608.

(c) The NH authority shall close the account after 20 days from the date of the notice if the CO<sub>2</sub> AAR does not submit a transfer of CO<sub>2</sub> allowances into the account in accordance with Env-A 4608.01 before the end of the 20-day period.

PART Env-A 4608 CO<sub>2</sub> ALLOWANCE TRANSFERSEnv-A 4608.01 Submission of CO<sub>2</sub> Allowance Transfers.

(a) Any CO<sub>2</sub> AAR seeking recordation of a CO<sub>2</sub> allowance transfer shall submit the transfer request to the NH authority in accordance with (b), below.

(b) To be considered correctly submitted, the CO<sub>2</sub> allowance transfer request shall include the following elements in a format specified by the NH authority:

- (1) The numbers identifying both the transferor and transferee accounts;
- (2) A specification by serial number of each CO<sub>2</sub> allowance to be transferred;
- (3) The printed name and signature of the CO<sub>2</sub> AAR of the transferor account and the date signed;
- (4) The date of the completion of the last sale or purchase transaction for the allowance, if any; and
- (5) The purchase or sale price of the allowance that is the subject of a sale or purchase transaction under (4), above.

(c) Upon receipt of a CO<sub>2</sub> allowance transfer request, the NH authority shall review the submission to determine whether the requirements of (b), above, have been met.

(d) If the requirements of (b), above, have not been met, the NH authority shall:

- (1) Deny the CO<sub>2</sub> allowance transfer request; and
- (2) Inform the CO<sub>2</sub> AAR making the request in writing of the denial and the reason(s) therefore.

(e) The CO<sub>2</sub> AAR may submit a new transfer request only if the reason(s) for the denial of the original request are corrected.

Env-A 4608.02 Recordation.

(a) Subject to (b), below, the NH authority shall, within 5 business days of receiving a CO<sub>2</sub> allowance transfer request that fully complies with Env-A 4608.01, record the CO<sub>2</sub> allowance transfer by moving each CO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request.

(b) A CO<sub>2</sub> allowance transfer into or out of a compliance account shall not be recorded until after completion of the deduction for compliance process specified in Env-A 4605.05 if the request:

- (1) Is submitted for recordation following the CO<sub>2</sub> allowance transfer deadline; and
- (2) Includes any CO<sub>2</sub> allowances from allocation years that fall within a control period prior to or the same as the control period to which the CO<sub>2</sub> allowance transfer deadline applies.

Env-A 4608.03 Notification of Recordation.

(a) Within 5 business days of recordation of a CO<sub>2</sub> allowance transfer pursuant to Env-A 4608.02, the NH authority shall notify the CO<sub>2</sub> AARs of both the transferor and transferee accounts.

(b) The notice provided pursuant to (a), above, shall:

- (1) Identify the transferor and transferee accounts;
- (2) Identify the transferred CO<sub>2</sub> allowances, by serial number.

## PART Env-A 4609 MONITORING AND REPORTING

### Env-A 4609.01 General Requirements.

(a) Each owner and operator, and to the extent applicable, the CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit, shall comply with the monitoring, recordkeeping and reporting requirements as provided in this part and in all applicable sections of 40 CFR part 75.

(b) For purposes of complying with such requirements, the definitions in Env-A 4602 and in 40 CFR 72.2 shall apply, except as follows:

- (1) The term “affected unit” in 40 CFR part 75 shall be replaced by the term “CO<sub>2</sub> budget unit” as defined in Env-A 4602;
- (2) The term “designated representative” in 40 CFR part 75 shall be replaced by the term “CO<sub>2</sub> AAR” as defined in Env-A 4602; and
- (3) The term “continuous emissions monitoring system (CEMS)” in 40 CFR part 75 shall be replaced by the term “continuous emissions monitoring system (CEMS)” as defined in Env-A 4602.
- (4) For units not subject to the federal acid rain program, the term “Administrator” in 40 CFR Part 75 shall be replaced with “NH authority.”

(c) Owners or operators of a CO<sub>2</sub> budget unit who monitor a non-CO<sub>2</sub> budget unit pursuant to the common, multiple, or bypass stack procedures in 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16 (b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for purposes of complying with this chapter, shall monitor and report CO<sub>2</sub> mass emissions from such non-CO<sub>2</sub> budget unit according to the procedures for CO<sub>2</sub> budget units established in Env-A 4609.

Env-A 4609.02 Requirements for Installation, Certification, and Data Accounting. The owner or operator of each CO<sub>2</sub> budget unit shall:

(a) Install all monitoring systems required under this part for monitoring CO<sub>2</sub> mass emissions in accordance with 40CFR Part 75, including all systems required to monitor CO<sub>2</sub> concentration, stack gas flow rate, O<sub>2</sub> concentration, heat input, and fuel flow rate, as applicable, in accordance with 40 CFR 75.13, 75.71 and 75.72 and all portions of appendix G of 40 CFR part 75, except that equation G-1 in 40 CFR Part 75 shall not be used to determine CO<sub>2</sub> emissions under Env-A 4609;

(b) Successfully complete all certification tests required under Env-A 4609.06 and meet all other requirements of Env-A 4609 and 40 CFR part 75 applicable to the monitoring systems under (a), above; and

(c) Record, quality-assure, and report the data from the monitoring systems identified in (a), above, by the dates specified in Env-A 4609.03.

Env-A 4609.03 Compliance Dates. The owner or operator shall comply with all requirements of Env-A 4609 on or before the following dates:

(a) The owner or operator of a CO<sub>2</sub> budget unit that commences commercial operation before July 1, 2008 shall comply by January 1, 2009;

(b) The owner or operator of a CO<sub>2</sub> budget unit that commences commercial operation on or after July 1, 2008 must comply with the requirements of Env-A 4609 by the later of the following dates:

(1) January 1, 2009; or

(2) The earlier of:

a. 90 unit operating days after the date on which the unit commences commercial operation; or

b. 180 calendar days after the date on which the unit commences commercial operation; and

(c) For the owner or operator of a CO<sub>2</sub> budget unit for which construction of a new stack or flue installation is completed after the applicable deadline under (a) or (b), above, by the earlier of:

(1) 90 unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue; or

(2) 180 calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue.

Env-A 4609.04 Reporting Data.

(a) Except as provided in (b), below, the owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date set forth in Env-A 4609.03 for any monitoring system required under Env-A 4609.02(a) shall, for each such monitoring system, determine, record, and report maximum potential, or as appropriate, minimum potential values for CO<sub>2</sub> concentration, CO<sub>2</sub> emissions rate, stack gas moisture content, fuel flow rate and any other parameters required to determine CO<sub>2</sub> mass emissions and heat input in accordance with (c), below, 40 CFR 75.31(b)(2), 40 CFR part 75 section 2.4 of appendix D, or 40 CFR part 75 section 2.5 of appendix F, as applicable.

(b) The owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date set forth in Env-A 4609.03(c) for any monitoring system required under Env-A 4609.02(a) shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in 40 CFR part 75 Subpart D, or 40 CFR part 75 appendix D or appendix E, in lieu of the maximum potential, or as appropriate, minimum potential values for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under Env-A 4609.03(c).

(c) Any CO<sub>2</sub> budget unit that is subject to an acid rain emissions limitation and that qualifies for the optional SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub> emissions calculations for low mass emissions (LME) units under 40 CFR 75.19 and reports emissions for such programs using the calculations under 40 CFR 75.19, shall also use the CO<sub>2</sub> emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this

chapter.

(d) Any CO<sub>2</sub> budget unit that is subject to an acid rain emissions limitation but that does not qualify for the optional SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub> emissions calculations for LME units under 40 CFR 75.19 shall not use the CO<sub>2</sub> emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this chapter.

(e) Any CO<sub>2</sub> budget unit that is not subject to an acid rain emissions limitation shall qualify for the optional CO<sub>2</sub> emissions calculation for LME units under 40 CFR 75.19, provided that the unit emits less than 100 tons of NO<sub>x</sub> annually and no more than 25 tons of SO<sub>2</sub> annually.

#### Env-A 4609.05 Prohibitions.

(a) No owner or operator of a CO<sub>2</sub> budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emissions monitoring system without having obtained prior written approval in accordance with Env-A 4609.

(b) No owner or operator of a CO<sub>2</sub> budget unit shall operate the unit so as to discharge, or allow to be discharged, CO<sub>2</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of Env-A 4609 and 40 CFR part 75.

(c) No owner or operator of a CO<sub>2</sub> budget unit shall disrupt the continuous emissions monitoring system or any portion thereof, or any other approved emissions monitoring method, and thereby avoid monitoring and recording CO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of Env-A 4609 and 40 CFR part 75.

(d) No owner or operator of a CO<sub>2</sub> budget unit shall retire or permanently discontinue use of the continuous emissions monitoring system or any component thereof, or any other approved emissions monitoring system under Env-A 4609, except under any one of the following circumstances:

- (1) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of Env-A 4609 and 40 CFR part 75, by the department for use at that unit that provides emissions data for the same pollutant or parameter as the retired or discontinued monitoring system; or
- (2) The CO<sub>2</sub> AAR submits notification of the date of certification testing of a replacement monitoring system in accordance with Env-A 4609.08.

#### Env-A 4609.06 Initial Certification and Recertification Requirements.

(a) Except as provided in (b) through (d) or (g), below, the owner or operator of a CO<sub>2</sub> budget unit shall comply with the initial certification and recertification procedures specified in Env-A 4609.06 and 40 CFR 75.20 for:

- (1) A continuous emissions monitoring system (CEMS), including the automated data acquisition and handling system;
- (2) A monitoring system excepted under appendix D of 40 CFR part 75 and Env-A 4609; and
- (3) Any monitoring system installed in order to meet the requirements of Env-A 4609 in a location where no such monitoring system was previously installed.

(b) The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 shall comply with the procedures in Env-A 4609.13.

(c) The owner or operator of a unit that qualifies to use an alternative monitoring system under Subpart E of 40 CFR part 75 shall comply with the procedures in Env-A 4609.14.

(d) The owner or operator of a CO<sub>2</sub> budget unit shall be exempt from initial certification requirements for a monitoring system required under Env-A 4609.02 if the monitoring system:

- (1) Previously was certified in accordance with 40 CFR part 75; and
- (2) Meets all applicable quality assurance and quality control requirements of 40 CFR 75.21 and appendix B and appendix D of 40 CFR part 75.

(e) Except as provided in (g), below, the owner or operator of a CO<sub>2</sub> budget unit shall recertify in accordance with 40 CFR 75.20(b) for:

- (1) A monitoring system that is exempt from initial certification requirements under (b)-(d), above;
- (2) Any replacement, modification, or change in a certified continuous emissions monitoring system required under Env-A 4609.02 that the Administrator or the department determines, in accordance with 40 CFR Part 75, significantly affects the ability of the system to accurately measure or record CO<sub>2</sub> mass emissions or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR part 75;
- (3) In the case of a monitoring system using stack measurements such as stack flow, stack moisture content, CO<sub>2</sub> monitors, or O<sub>2</sub> monitors, any replacement, modification, or change to the flue gas handling system or the unit's operation that the Administrator or the department determines, in accordance with 40 CFR Part 75, significantly changes the flow or concentration profile.

(f) Changes which require recertification shall include, but not be limited to, replacing the analyzer, changing the location or orientation of the sampling probe or site, or changing the flow rate monitor polynomial coefficients.

(g) If the Administrator has previously approved a petition under 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16 (b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for apportioning the CO<sub>2</sub> emissions rate measured in a common stack, or a petition under 40 CFR 75.66 for an alternative requirement in 40 CFR Part 75, the CO<sub>2</sub> AAR shall submit the petition to the department under Env-A 4609.17 to determine whether the approval applies under the CO<sub>2</sub> budget trading program.

#### Env-A 4609.07 Approval Process for Initial Certifications and Recertifications.

(a) Subject to (b), below, the requirements of Env-A 4609.08 through Env-A 4609.15 shall apply to both initial certification and recertification of a monitoring system installed in accordance with Env-A 4609.02(a).

(b) For recertifications, the following shall apply:

- (1) The words "certification" and "initial certification" shall be read as "recertification";
- (2) The word "certified" shall be read as "recertified"; and

(3) The process described in 40 CFR 75.20(b)(5) and (g)(7) shall be used in lieu of Env-A 4609.12.

Env-A 4609.08 Notification of Certification Testing and Retesting. The CO<sub>2</sub> AAR shall submit written notices of certification testing and retesting in accordance with 40 CFR 75.61 to the NH authority, the appropriate EPA Regional Office, and the Administrator.

Env-A 4609.09 Certification Application.

(a) The CO<sub>2</sub> AAR shall submit a certification application which includes the information specified in 40 CFR 75.63 for each monitoring system to the NH authority.

(b) The CO<sub>2</sub> AAR shall submit the certification application within 45 days after completing all CO<sub>2</sub> monitoring system certification tests required by Env-A 4609.02, including the information required under 40 CFR 75.63 and 40 CFR 75.53 (e) and (f).

(c) If the certification application is not complete, the NH authority shall issue a written notice of incompleteness that identifies the information that is missing and sets a reasonable date by which the CO<sub>2</sub> AAR must submit the additional information required to complete the certification application.

(d) If the CO<sub>2</sub> AAR does not submit the additional information required to complete the certification application by the specified date, the NH authority shall issue a notice of disapproval under Env-A 4609.11.

(e) The 120 day review period specified in Env-A 4609.11(a) shall not begin until a complete certification application is received.

Env-A 4609.10 Provisional Certification.

(a) The provisional certification date for a monitor shall be determined in accordance with 40 CFR 75.20(a)(3).

(b) A provisionally-certified monitor may be used under the CO<sub>2</sub> budget trading program for a period not to exceed 120 days after receipt by the NH authority of the complete certification application for the monitoring system or component thereof in accordance with Env-A 4609.09.

(c) Data measured and recorded by the provisionally-certified monitoring system or component thereof, in accordance with the requirements of 40 CFR part 75, shall be considered valid quality-assured data retroactive to the date and time of provisional certification, provided that the NH authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the NH authority.

Env-A 4609.11 Certification Application Approval: Process and Notification.

(a) The NH authority shall issue a written notice of approval or disapproval of the certification application to the CO<sub>2</sub> AAR within 120 days of receipt of the complete certification application as specified in Env-A 4609.09.

(b) If the NH authority does not issue such notice within such 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR part 75 and is included in the certification application shall be deemed certified for use under the CO<sub>2</sub> budget trading program.

(b) If the certification application is complete and shows that each monitoring system meets the



applicable performance requirements of 40 CFR part 75, then the NH authority shall issue a written notice of approval of the certification application as provided in (a), above.

(c) The NH authority shall issue a written notice of disapproval of the certification application as provided in (a), above, if:

- (1) The certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR part 75; or
- (2) The certification application is incomplete and the response required under Env-A 4609.09(c) is not provided.

(d) The notice of disapproval shall:

- (1) Specify the reason(s) for the disapproval; and
- (2) Inform the CO<sub>2</sub> AAR that the provisional certification is invalidated by the issuance of the notice, and that the data measured and recorded by each uncertified monitoring system or component thereof is not considered valid quality-assured data beginning with the date and hour of provisional certification.

(e) The owner or operator shall follow the procedures for loss of certification in Env-A 4609.12 for each monitoring system or component thereof, which is disapproved for initial certification.

Env-A 4609.12 Procedures After Loss of Certification. If the NH authority issues a notice of disapproval of a certification application under Env-A 4609.11(c) or a notice of disapproval of certification status under Env-A 4609.15(c) then:

(a) The owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i) or 40 CFR 75.20(g)(7):

- (1) For units using or intending to monitor for CO<sub>2</sub> mass emissions using heat input or for units using the low mass emissions excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the unit as determined pursuant to (b), below; or
- (2) For units intending to monitor for CO<sub>2</sub> mass emissions using a CO<sub>2</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO<sub>2</sub> and the maximum potential flow rate of the unit under section 2.1 of appendix A of 40 CFR part 75;

(b) If the owner or operator of a unit intends to use appendix D of 40 CFR Part 75 to report the heat input of a unit, the maximum potential hourly heat input of the unit shall be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the owner or operator of the unit intends to use a flow monitor and a diluent gas monitor, the maximum potential hourly heat input of the unit shall be reported, in accordance with 40 CFR Part 75, using the maximum potential flow rate and either the maximum carbon dioxide concentration, in percent CO<sub>2</sub>, or the minimum oxygen (O<sub>2</sub>) concentration, in percent O<sub>2</sub>.

(c) The CO<sub>2</sub> AAR shall submit a notification of certification retest dates and a new certification application in accordance with Env-A 4609.08 and Env-A 4609.09; and

(d) The owner or operator shall repeat all certification tests or other requirements that were failed by

the monitoring system, as indicated in the notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

Env-A 4609.13 Initial Certification and Recertification Procedures for Low Mass Emissions Units Using Excepted Methodologies.

(a) The owner or operator of a unit qualified to use the low mass emissions excepted methodology under Env-A 4609.04(c) shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2), 40 CFR 75.20(h) and Env-A 4609.13.

(b) If the owner or operator of such a unit elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

Env-A 4609.14 Certification/Recertification Procedures for Alternative Monitoring Systems. The CO<sub>2</sub> authorized account of each unit for which the owner or operator intends to use an alternative monitoring system approved by the Administrator and, if applicable, the department under Subpart E of 40 CFR part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

Env-A 4609.15 Out-of-control Periods; Audit Decertification.

(a) Whenever any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR part 75, data shall be substituted using the applicable procedures in Subpart D or appendix D of 40 CFR part 75.

(b) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement of Env-A 4609 or the applicable provisions of 40 CFR part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the NH authority or Administrator shall issue a notice of disapproval of the certification status of such monitoring system. For purposes of this section, an audit shall be either a field audit or an audit of any information submitted to the NH authority or the Administrator.

(c) Issuance of a notice of disapproval shall constitute revocation of the certification status of the monitoring system as of the date of the notice. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the initial certification or recertification procedures specified in Env-A 4609.06 for each disapproved monitoring system.

Env-A 4609.16 Recordkeeping and Reporting.

(a) The CO<sub>2</sub> AAR shall comply with all recordkeeping and reporting requirements in this section, the applicable record keeping and reporting requirements under 40 CFR 75.73, and with the requirements of Env-A 4604.01(e).

(b) The CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit shall submit a monitoring plan in the manner prescribed in 40 CFR 75.62.

(c) The CO<sub>2</sub> AAR shall submit quarterly reports as follows:

(1) The CO<sub>2</sub> AAR shall report the CO<sub>2</sub> mass emissions data for the CO<sub>2</sub> budget unit, in an electronic format prescribed by the Administrator unless otherwise prescribed by the NH authority, for each calendar quarter beginning with:

a. For a unit that commenced commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009 through March 31, 2009; or

b. For a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subdivision Env-A 4609.03, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 through March 31, 2009;

(2) The CO<sub>2</sub> AAR shall submit each quarterly report to the NH authority within 30 days following the end of the calendar quarter covered by the report, in the manner specified in Subpart H of 40 CFR part 75 and 40 CFR 75.64;

(3) Quarterly reports shall be submitted for each CO<sub>2</sub> budget unit, or for each group of units using a common stack, which include all of the data and information required in Subpart G of 40 CFR part 75, except for opacity, NO<sub>x</sub>, and SO<sub>2</sub> provisions; and

(3) The CO<sub>2</sub> AAR shall include a compliance certification with, and in support of, each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

a. The monitoring data submitted were recorded in accordance with the applicable requirements of both 40 CFR part 75 and this section, including the quality assurance procedures and specifications;

b. For a unit with add-on CO<sub>2</sub> emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B of 40 CFR part 75 and the substitute values do not systematically underestimate CO<sub>2</sub> emissions; and

c. The CO<sub>2</sub> concentration values substituted for missing data under Subpart D of 40 CFR part 75 do not systematically underestimate CO<sub>2</sub> emissions.

#### Env-A 4609.17 Petitions.

(a) Except as provided in (c), below, the CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the NH authority requesting approval to apply an alternative to any requirement of 40 CFR Part 75.

(b) The CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the NH authority requesting approval to apply an alternative to any requirement of 40 CFR Part 75.

(c) If the Administrator declines to review a petition, the CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit that is not subject to an acid rain emissions limitation may submit a petition to the NH authority requesting approval to apply an alternative to any requirement of Env-A 4609. The petition shall contain all of the relevant

information specified in 40 CFR 75.66.

(c) The CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the NH authority requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 or a CO<sub>2</sub> concentration CEMS used under 40 CFR 75.71(a)(2).

(d) The use of an alternative to any such requirement shall only satisfy the requirements of this chapter if the petition is approved in writing by the Administrator and by the NH authority.

Env-A 4609.18 CO<sub>2</sub> Budget Units that Co-fire Eligible Biomass.

(a) The CO<sub>2</sub> AAR of a CO<sub>2</sub> budget unit that co-fires eligible biomass as a compliance mechanism shall report the following information to the NH authority for each calendar quarter:

- (1) Chemical analysis of eligible biomass fired, including carbon content and heating value;
- (2) Moisture content of eligible biomass for each shipment received for firing at the CO<sub>2</sub> budget unit;
- (3) Total eligible biomass fuel input to the CO<sub>2</sub> budget unit, in units of mass or volume, as appropriate;
- (4) Total eligible biomass heat input on an as-fired basis to the CO<sub>2</sub> budget unit, in MMBtu;
- (5) Heat input rate of eligible biomass to the CO<sub>2</sub> budget unit, in MMBtu/hr;
- (6) Fuel feed rate of eligible biomass to the CO<sub>2</sub> budget unit, in units of mass or volume per hour, as appropriate;
- (7) Total operating hours for which eligible biomass was fired;
- (8) The as-fired biomass CO<sub>2</sub> emissions factor ( $B_{EF}$ ) for the CO<sub>2</sub> budget unit for each distinct type of eligible biomass fired during the reporting quarter, calculated as specified in (b), below, and represented as CO<sub>2</sub> lbs./MMBtu of biomass heat input;
- (9) CO<sub>2</sub> tons emitted from the CO<sub>2</sub> budget unit due to firing of eligible biomass, determined in accordance with (e), below, using the as-fired biomass CO<sub>2</sub> emissions factor ( $B_{EF}$ );
- (10) A description and documentation of fuel sampling frequency and methodology; and
- (11) A description and documentation of monitoring technology employed.

(b) The owner or operator of a CO<sub>2</sub> budget unit shall calculate and submit to the NH authority on a quarterly basis the as-fired biomass CO<sub>2</sub> emissions factor ( $B_{EF}$ ) for the CO<sub>2</sub> budget unit for each distinct type of eligible biomass fired during the reporting quarter, represented as CO<sub>2</sub> lbs./MMBtu of biomass heat input. The as-fired CO<sub>2</sub> emissions factor shall be the lower of the following:

- (1) As measured and recorded by the continuous emissions monitor during all periods when firing eligible biomass alone; or
- (2) For solid fuel, as determined in accordance with (c), below; or

- (3) For gaseous fuel, as determined in accordance with (d), below:
- (c) The  $B_{EF}$  for solid fuel shall be calculated as follows:
- (1) “C” means the carbon content of biomass, fraction by dry weight, for each distinct fuel type;
  - (2) “ $F_{IN}$ ” means the total biomass fuel input, in pounds, for each distinct fuel type;
  - (3) “HI” means the heat input, as-fired, in MMBtu, for each distinct fuel type, as determined as follows:
    - a. “ $HHV_{DRY}$ ” means the higher heating value, in MMBtu/lb., dry basis for each distinct fuel type fired;
    - b. “ $MCW_{AS-FIRED-i}$ ” means the moisture content wet basis fraction for each shipment (i) fired; and
    - c. “ $F_{IN-i}$ ” means the biomass fuel input, in pounds, for each shipment (i) fired;
    - d. “n” means the total number of shipments; and
    - e. Heat input fired is the summation for all shipments of the product of the  $F_{IN-i}$  and the product of the  $HHV_{DRY}$  and the difference between one and the  $MCW_{AS-FIRED-i}$ , as shown in the following equation:

$$HI = \sum_{i=1}^n (HHV_{DRY} (1 - MCW_{AS-FIRED-i})) \times F_{IN-i} \quad ; \text{ and}$$

- (4) The as-fired biomass  $CO_2$  emissions factor ( $B_{EF}$ ) for the  $CO_2$  budget unit for each distinct type of eligible biomass fired equals [44 divided by 12] multiplied by the the product of C and  $F_{IN}$  divided by HI, as shown in the following equation:

$$B_{EF} (CO_2 \text{ lbs./MMBtu}) = ((C \times F_{IN})/HI) (44 \text{ g/mol } CO_2/12 \text{ g/mol C})$$

- (d) The  $B_{EF}$  for solid fuel shall be calculated as follows:
- (1) “C” means the carbon content of biogas, (fraction by weight), for each distinct fuel type;
  - (2) “D” means the density of biogas, in pounds per standard cubic foot (scf) for each distinct fuel type;
  - (3) “HHV” means the higher heating value, in MMBtu/scf, for each distinct fuel type; and
  - (4) The  $B_{EF}$  is the product of C times D, divided by HHV, multiplied by 44 divided by 12, as shown in the following equation:

$$B_{EF} (CO_2 \text{ lbs./MMBtu}) = ((C \times D)/HHV)(44/12)$$

- (e)  $CO_2$  emissions due to firing of eligible biomass shall be determined as follows:

- (1) “CO<sub>2</sub> tons” means the tons of CO<sub>2</sub> emissions due to firing of eligible biomass for the reporting quarter;
- (2) “B<sub>HI-i</sub>” means the eligible biomass heat input on an as-fired basis (MMBtu) for the reporting quarter for each distinct type (i) of eligible biomass fired;
- (3) “B<sub>EF-i</sub>” means the eligible biomass emissions factor for the reporting quarter (lbs. CO<sub>2</sub>/MMBtu) for each distinct type (i) of eligible biomass fired;
- (4) “B<sub>OF-i</sub>” means the eligible biomass oxidation factor for each distinct type (i) of eligible biomass fired, derived for solid fuels based on the ash content of the eligible biomass fired and the carbon content of this ash, and for gaseous biomass fuels using a default oxidation factor of 0.995; and
- (5) The CO<sub>2</sub> emissions due to firing of eligible biomass is the summation for all types of eligible biomass fired of the product of the B<sub>HI-i</sub> and the B<sub>EF-i</sub> and the B<sub>OF-i</sub> divided by 2,000, as shown in the following equation:

$$\text{CO}_2 \text{ tons} = \sum_{i=1}^n (\text{B}_{\text{HI}-i} \times \text{B}_{\text{EF}-i} \times \text{B}_{\text{OF}-i}) / 2000 \text{ lbs. per ton}$$

- (f) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable Portfolio Standard Biomass Guidebook, May 2006.

#### APPENDIX

Rule Section(s)	State or Federal Statute or Federal Regulation Implemented
Env-A 4600	RSA 125-O:19-28